IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION LODGING NO.9 OF 2005
IN
CONTEMPT PETITION NO.11 OF 2005
IN
SUIT NIO.1321 OF 1988

Raymond H. D'Lima and anr. ....Petitioners.

Vs.

City Survey Officer (V) Malad and ors.
....Contemnors.

And

Mr. Nusil N. Wadia.
....Review Petitioner/Plff.No.5
in Suit No.1321 of 1988.

CORAM : A.S. AGUIAR,J.
DATED : 11/3/2005.

P.C.:

1. In the above contempt petition, this court (A.S. Aguiar, J.) passed an order dated 11.2.2005 directing the respondents/contemnors/City Survey Officer(V) Malad and ors. to carry out the survey and demarcation of boundaries in respect of the suit property. When the petition was moved, no notice of the petition was given to the present petitioners who are seeking review of the order. The Review Petitioners claim to be vitally affected by the

order passed by this court on 11.2.2005.

2. It is their case that the question of carrying out resurvey of the property does not arise as the survey has already been carried out pursuant to two orders passed by this court (D.K. Deshmukh, J.) dated 24.2.2000 and (P.V. Kakade, J.) dated 10.4.2002. Contempt is alleged in respect of the order of (S.C.Dharmadhikari, J.) dated 5.5.2004 which only directed the city survey officer to demarcate the boundaries at site within a period of six weeks.

3. It is the contention of the petitioners to the review petition that since the survey has already been carried out, the only thing that remains to be done is for the city survey officer to carry out the demarcation work as per the order of this court (S.C. Dharmadhikari, J.) dated 5.5.2004 and the order of resurvey of the property which was obtained behind the back of the Review Petitioners needs to be set aside.

4. The original petitioners are not able to rebut the Review Petitioners' contention. In the circumstances, the order of this court dated

11.2.2005 will stand amended to the extent that there will be no resurvey of the property. The respondents/Contemnors are directed to carry out the work as per the order dated 5.5.2004 of this court (S.C. Dharmadhikari, J.) namely, demarcate the boundaries of the plot. The demarcation will be done within a period of 6-weeks from today.

5. With the above order, review petition stands disposed of. No order as to costs.

(A.S.AGUIAR, J.)